

The Honorable David G. Estudillo

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RAYMOND PARKER, AS PERSONAL
REPRESENTATIVE FOR THE ESTATE OF
AARON CHRISTENSEN and ITS
BENEFICIARIES,

Plaintiff,

vs.

MICHAEL R. ASBACH, an individual; and
ETHAN ASBACH, an individual,

Defendants.

Case No. 3:24-cv-05679-DGE

DEFENDANT MICHAEL
ASBACH'S **ANSWER AND**
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR WRONGFUL
DEATH, NEGLIGENCE, BATTERY,
CONVERSION, AND STRICT
LIABILITY FOR ENGAGING IN AN
ABNORMALLY DANGEROUS
ACTIVITY

Defendant Michael R. Asbach (hereinafter named as "Defendant") hereby answers the allegations in the Plaintiff's First Amended Complaint for Wrongful Death, Negligence, Battery, Conversion, and Strict Liability for Engaging in an Abnormally Dangerous Activity ("Amended Complaint") by admitting, denying, and otherwise alleging as follows. These responses are made solely on behalf of Defendant and no other party, whether named or unnamed. Any allegations not specifically admitted are hereby denied.

DEFENDANT MICHAEL R. ASBACH'S ANSWER TO
FIRST AMENDED COMPLAINT - 1
(Case No. 3:24-cv-05679-DGE)

HELSELL
FETTERMAN

Hellsell Fetterman LLP
800 Fifth, Suite 3200
Seattle, WA 98104
206.292.1144 WWW.HELSELL.COM

1
2
3
4
5
6
7
8
9
10
11
12

I. INTRODUCTION

1.1 As to the allegations in paragraph 1.1 of the Amended Complaint, Defendant lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the allegations in this paragraph and, therefore, denies the same.

1.2 As to the allegations in paragraph 1.2 of the Amended Complaint, Defendant lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the allegations in this paragraph and, therefore, denies the same. Defendant specifically denies that he unlawfully gave and/or unlawfully entrusted a firearm to Defendant Ethan Asbach.

1.3 As to the allegations in paragraph 1.3 of the Amended Complaint, Defendant lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the allegations in this paragraph and, therefore, denies the same.

13
14
15
16
17
18
19
20
21
22
23
24
25

II. THE PARTIES

2.1 As to the allegations in paragraph 2.1 of the Amended Complaint, Defendant lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the allegations in this paragraph and, therefore, denies the same.

2.2 As to the allegations in paragraph 2.2 of the Amended Complaint, Defendant lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the allegations in this paragraph and, therefore, denies the same.

2.3 As to the allegations in paragraph 2.3 of the Amended Complaint, Defendant admits.

III. JURISDICTION AND VENUE

3.1 As to the allegations in paragraph 3.1 of the Amended Complaint, paragraph 3.1 calls for one or more legal conclusions, thus no answer is required. Defendant also lacks

1 sufficient knowledge and/or information to form a belief as to the truth or falsity of the factual
2 allegations in this paragraph and, therefore, denies the same.

3 3.2 As to the allegations in paragraph 3.2 of the Amended Complaint, Defendant
4 admits the Asbachs are citizens of the state of Washington but denies the remainder.

5 3.3 As to the allegations in paragraph 3.3 of the Amended Complaint, Defendant
6 admits that he is subject to the Court's personal jurisdiction over him and that he resides in
7 Thurston County but lacks sufficient knowledge and/or information to form a belief as to the
8 truth or falsity of the remainder of the allegations in this paragraph and, therefore, denies the
9 same.

10 3.4 As to the allegations in paragraph 3.4 of the Amended Complaint, paragraph
11 3.4 calls for one or more legal conclusions, thus no answer is required.

12 **IV. NATURE OF ACTION**

13 4.1 As to the allegations in paragraph 4.1 of the Amended Complaint, Defendant
14 denies he is liable under any theory or cause of action for any damages claimed by Plaintiff.

15 **V. STATEMENT OF FACTS**

16 **Aron and Buzzo Travel with Friends to Walupt Lake Campground**

17 5.1 As to the allegations in paragraph 5.1 of the Amended Complaint, Defendant
18 lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the
19 allegations in this paragraph and, therefore, denies the same.

20 5.2 As to the allegations in paragraph 5.2 of the Amended Complaint, Defendant
21 lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the
22 allegations in this paragraph and, therefore, denies the same.

23 5.3 As to the allegations in paragraph 5.3 of the Amended Complaint, Defendant
24 lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the
25

1 allegations in this paragraph and, therefore, denies the same.

2 5.4 As to the allegations in paragraph 5.4 of the Amended Complaint, Defendant
3 lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the
4 allegations in this paragraph and, therefore, denies the same.

5 5.5 As to the allegations in paragraph 5.5 of the Amended Complaint, Defendant
6 lacks sufficient knowledge and/or information to form a belief as to the truth or falsity of the
7 allegations in this paragraph and, therefore, denies the same.

8 **Michael Travels to Walupt Lake Campground and Then to Sheep Lake**

9 5.6 As to the allegations in paragraph 5.6 of the Amended Complaint, Defendant
10 admits.

11 5.7 As to the allegations in paragraph 5.7 of the Amended Complaint, Defendant
12 admits and states that the purpose of the trip was bear hunting.

13 5.8 As to the allegations in paragraph 5.8 of the Amended Complaint, Defendant
14 admits and states that his son Ethan planned to join him that weekend.

15 5.9 As to the allegations in paragraph 5.9 of the Amended Complaint, Defendant
16 admits that Ethan and KAB planned to come up later, but lacks information to either admit or
17 deny the exact timeline, and therefore denies the remaining allegations.

18 5.10 As to the allegations in paragraph 5.10 of the Amended Complaint, Defendant
19 admits that he gave Defendant Ethan Asbach directions to Sheep Lake and admits that he
20 asked Defendant Ethan Asbach to take Defendant's handgun from Defendant's truck and that
21 it could be used for protection against wild animals. Defendant denies all remaining
22 allegations.

23 5.11 As to the allegations in paragraph 5.11 of the Amended Complaint, Defendant
24 admits that Ethan Asbach was 19 years old on August 19, 2022, but denies the remainder.

1 5.12 As to the allegations in paragraph 5.12 of the Amended Complaint, Defendant
2 admits that he and Ethan Asbach are experienced gun owners and Defendant denies that he
3 disregarded the law or basic rules of firearm safety.

4 **Ethan and KAB Arrive at Walupt Lake Campground and Flee the Next Day**

5 5.13 As to the allegations in paragraph 5.13 of the Amended Complaint, paragraph
6 5.13 contains no allegations directed at Defendant and, therefore, no response is required.

7 5.14 As to the allegations in paragraph 5.14 of the Amended Complaint, paragraph
8 5.14 contains no allegations directed at Defendant and, therefore, no response is required.

9 5.15 As to the allegations in paragraph 5.15 of the Amended Complaint, paragraph
10 5.15 contains no allegations directed at Defendant and, therefore, no response is required.

11 5.16 As to the allegations in paragraph 5.16 of the Amended Complaint, paragraph
12 5.16 contains no allegations directed at Defendant and, therefore, no response is required.

13 5.17 As to the allegations in paragraph 5.17 of the Amended Complaint, paragraph
14 5.17 contains no allegations directed at Defendant and, therefore, no response is required.

15 5.18 As to the allegations in paragraph 5.18 of the Amended Complaint, paragraph
16 5.18 contains no allegations directed at Defendant and, therefore, no response is required.

17 5.19 As to the allegations in paragraph 5.19 of the Amended Complaint, paragraph
18 5.19 contains no allegations directed at Defendant and, therefore, no response is required.

19 5.20 As to the allegations in paragraph 5.20 of the Amended Complaint, paragraph
20 5.20 contains no allegations directed at Defendant and, therefore, no response is required.

21 5.21 As to the allegations in paragraph 5.21 of the Amended Complaint, paragraph
22 5.21 contains no allegations directed at Defendant and, therefore, no response is required.

23 5.22 As to the allegations in paragraph 5.22 of the Amended Complaint, Defendant
24 admits he returned to Tenino and contacted LCSO on Sunday, August 21, 2021, but the
25

1 remainder of paragraph 5.22 contains no allegations directed at Defendant and, therefore, no
2 response is required.

3 **LCSO Is Dispatched to the Walupt Lake Area After Receiving News of Aron's and**
4 **Buzzo's Deaths and Aron's Gunshot Wound**

5 5.23 As to the allegations in paragraph 5.23 of the Amended Complaint, paragraph
6 5.23 contains no allegations directed at Defendant and, therefore, no response is required.

7 5.24 As to the allegations in paragraph 5.24 of the Amended Complaint, paragraph
8 5.24 calls for one or more legal conclusions, thus no answer is required. To the extent a
9 response is required, Defendant denies.

10 5.25 As to the allegations in paragraph 5.25 of the Amended Complaint, paragraph
11 5.25 contains no allegations directed at Defendant and, therefore, no response is required.

12 5.26 As to the allegations in paragraph 5.26 of the Amended Complaint, paragraph
13 5.26 calls for one or more legal conclusions, thus no answer is required. To the extent a
14 response is required, Defendant denies.

15 5.27 As to the allegations in paragraph 5.27 of the Amended Complaint, paragraph
16 5.27 calls for one or more legal conclusions, thus no answer is required. To the extent a
17 response is required, Defendant denies.

18 **VI. FIRST CLAIM FOR RELIEF**

19 **(Aron's Surviving Claim for Negligent Entrustment Against Defendant Michael**
20 **Asbach)**

21 Defendant incorporates all prior responses as if fully set forth herein.

22 6.1 As to the allegations in paragraph 6.1 of the Amended Complaint, Defendant
23 denies that he "prides himself", but does admit that he is an experienced and knowledgeable
24 gunowner and admits that he must always act with due care with his firearms.

1 6.2 As to the allegations in paragraph 6.2 of the Amended Complaint, paragraph
2 6.2 calls for one or more legal conclusions, thus no answer is required. To the extent a response
3 is required, Defendant admits that he was the owner of the firearm that he allowed Ethan
4 Asbach to carry but denies the remainder.

5 6.3 As to the allegations in paragraph 6.3 of the Amended Complaint, Defendant
6 denies.

7 6.4 As to the allegations in paragraph 6.4 of the Amended Complaint, paragraph
8 6.4 calls for one or more legal conclusions, thus no answer is required. To the extent a response
9 is required, Defendant denies.

10 6.5 As to the allegations in paragraph 6.5 of the Amended Complaint, Defendant
11 denies.

12 6.6 As to the allegations in paragraph 6.6 of the Amended Complaint, Defendant
13 denies.

14 6.7 As to the allegations in paragraph 6.7 of the Amended Complaint, Defendant
15 denies.

16 **VII. SECOND CLAIM FOR RELIEF**

17 **(Aron's Surviving Claim for Negligence Per Se Against Defendant Michael Asbach)**

18 7.1 As to the allegations in paragraph 7.1 of the Amended Complaint, paragraph
19 7.1 contains no allegations to which a response is required. To the extent a response is
20 required, Defendant incorporates all prior responses as if fully set forth herein.

21 7.2 As to the allegations in paragraph 7.2 of the Amended Complaint, Defendant
22 denies.

23 7.3 As to the allegations in paragraph 7.3 of the Amended Complaint, Defendant
24 denies.

1 7.4 As to the allegations in paragraph 7.4 of the Amended Complaint, Defendant
2 denies.

3 7.5 As to the allegations in paragraph 7.5 of the Amended Complaint, Defendant
4 denies.

5 7.6 As to the allegations in paragraph 7.6 of the Amended Complaint, Defendant
6 denies.

7 **VIII. THIRD CLAIM FOR RELIEF**

8 **(Wrongful Death Against Defendant Michael Asbach)**

9 8.1 As to the allegations in paragraph 8.1 of the Amended Complaint, paragraph
10 8.1 contains no allegations to which a response is required. To the extent a response is
11 required, Defendant incorporates all prior responses as if fully set forth herein.

12 8.2 As to the allegations in paragraph 8.2 of the Amended Complaint, Defendant
13 denies.

14 **IX. FOURTH CLAIM FOR RELIEF**

15 **(Aron's Surviving Claim for Negligence Against Defendant Ethan Asbach)**

16 9.1 As to the allegations in paragraph 9.1 of the Amended Complaint, paragraph
17 9.1 contains no allegations to which a response is required. To the extent a response is
18 required, Defendant incorporates all prior responses as if fully set forth herein.

19 9.2 As to the allegations in paragraph 9.2 of the Amended Complaint, paragraph
20 9.2 calls for one or more legal conclusions, thus no answer is required. To the extent a response
21 is required, Defendant denies.

22 9.3 As to the allegations in paragraph 9.3 of the Amended Complaint, paragraph
23 9.3 calls for one or more legal conclusions, thus no answer is required. To the extent a response
24 is required, Defendant denies.

1 9.4 As to the allegations in paragraph 9.4 of the Amended Complaint, paragraph
2 9.4 calls for one or more legal conclusions, thus no answer is required. To the extent a response
3 is required, Defendant denies.

4 9.5 As to the allegations in paragraph 9.5 of the Amended Complaint, paragraph
5 9.5 calls for one or more legal conclusions, thus no answer is required. To the extent a response
6 is required, Defendant denies.

7 **X. FIFTH CLAIM FOR RELIEF**

8 **(Aron's Surviving Claim for Negligence Per Se Against Defendant Ethan Asbach)**

9 10.1 As to the allegations in paragraph 10.1 of the Amended Complaint, paragraph
10 10.1 contains no allegations to which a response is required. To the extent a response is
11 required, Defendant incorporates all prior responses as if fully set forth herein.

12 10.2 As to the allegations in paragraph 10.2 of the Amended Complaint, paragraph
13 10.2 calls for one or more legal conclusions, thus no answer is required. To the extent a
14 response is required, Defendant denies.

15 10.3 As to the allegations in paragraph 10.3 of the Amended Complaint, paragraph
16 10.3 calls for one or more legal conclusions, thus no answer is required. To the extent a
17 response is required, Defendant denies.

18 10.4 As to the allegations in paragraph 10.4 of the Amended Complaint, paragraph
19 10.4 calls for one or more legal conclusions, thus no answer is required. To the extent a
20 response is required, Defendant denies.

21 **XI. SIXTH CLAIM FOR RELIEF**

22 **(Aron's Surviving Claim for Battery Against Defendant Ethan Asbach)**

23 Defendant incorporates all prior responses as if fully set forth herein.

24 11.1 As to the allegations in paragraph 11.1 of the Amended Complaint, paragraph
25

1 11.1 calls for one or more legal conclusions, thus no answer is required. To the extent a
2 response is required, Defendant denies.

3 11.2 As to the allegations in paragraph 11.2 of the Amended Complaint, paragraph
4 11.2 calls for one or more legal conclusions, thus no answer is required. To the extent a
5 response is required, Defendant denies.

6 **XII. SEVENTH CLAIM FOR RELIEF**

7 **(Aron's Surviving Claim for Strict Liability for Engaging in an Abnormally Dangerous**
8 **Activity Against Defendant Ethan Asbach)**

9 12.1 As to the allegations in paragraph 12.1 of the Amended Complaint, paragraph
10 12.1 contains no allegations to which a response is required. To the extent a response is
11 required, Defendant incorporates all prior responses as if fully set forth herein.

12 12.2 As to the allegations in paragraph 12.2 of the Amended Complaint, paragraph
13 12.2 calls for one or more legal conclusions, thus no answer is required. To the extent a
14 response is required, Defendant denies.

15 12.3 As to the allegations in paragraph 12.3 of the Amended Complaint, paragraph
16 12.3 calls for one or more legal conclusions, thus no answer is required. To the extent a
17 response is required, Defendant denies.

18 12.4 As to the allegations in paragraph 12.4 of the Amended Complaint, paragraph
19 12.4 calls for one or more legal conclusions, thus no answer is required. To the extent a
20 response is required, Defendant denies.

21 **XIII. EIGHTH CLAIM FOR RELIEF**

22 **(Wrongful Death Against Defendant Ethan Asbach)**

23 13.1 As to the allegations in paragraph 13.1 of the Amended Complaint, paragraph
24 13.1 contains no allegations to which a response is required. To the extent a response is
25

1 required, Defendant incorporates all prior responses as if fully set forth herein.

2 13.2 As to the allegations in paragraph 13.2 of the Amended Complaint, paragraph
3 13.2 calls for one or more legal conclusions, thus no answer is required. To the extent a
4 response is required, Defendant denies.

5 **XIV. NINTH CLAIM**

6 **(Aron's Survival Claim for Conversion Against Defendant Ehtan Asbach)**

7 14.1 As to the allegations in paragraph 14.1 of the Amended Complaint, paragraph
8 14.1 contains no allegations to which a response is required. To the extent a response is
9 required, Defendant incorporates all prior responses as if fully set forth herein.

10 14.2 As to the allegations in paragraph 14.2 of the Amended Complaint, paragraph
11 14.2 contains no allegations directed at Defendant and, therefore, no response is required.

12 14.3 As to the allegations in paragraph 14.3 of the Amended Complaint, paragraph
13 14.3 contains no allegations directed at Defendant and, therefore, no response is required.

14 14.4 As to the allegations in paragraph 14.4 of the Amended Complaint, paragraph
15 14.4 calls for one or more legal conclusions, thus no answer is required. To the extent a
16 response is required, Defendant denies.

17 **XV. PLAINTIFF'S PRAYER FOR RELIEF**

18 Plaintiff' prayer for relief (paragraphs A-F) contain no allegations to which an answer
19 is required. To the extent an answer is required, Defendant denies that Plaintiff is entitled to
20 the relief sought.

21 **XVI. AFFIRMATIVE DEFENSES**

22 1. Plaintiff has failed to state a claim or claims upon which relief can be granted.
23 Foreseeability is not alleged. Negligence per se is not a separate cause of action. Statutory
24
25

1 violations (though denied by Defendant) do not constitute negligence per se under RCW
2 5.40.050.

3 2. Contributory fault. Plaintiff's damages, if any be proven, were caused in whole
4 or in part by decedent's fault or negligence.

5 3. RCW 5.40.060 and RCW 4.24.420 may apply given the allegation in the
6 original complaint that "laced marijuana or psychedelic mushrooms" was found on decedent's
7 person.

8 4. Defendant Ethan Asbach's conduct was privileged, justifiable, and in self-
9 defense, and thus not actionable against Defendant Michael Asbach under any theory.

10 5. Non-party at fault. Plaintiff's injuries or damages, if any, including
11 beneficiaries' emotional distress, resulted from the actions or inactions of others outside the
12 control or right of Defendant, including LCSO's Deputy Andrew Scrivner and other Lewis
13 County employees and individuals, and government entities, named in Plaintiff's original
14 Complaint, thus entitling Defendant to a comparison of fault for these individuals and/or
15 entities.

16 6. Plaintiff's damages, if any be proven, resulted (in whole or in part) from pre-
17 existing conditions of the decedent that are unrelated to Defendant.

18 7. Plaintiff's damages, if any be proven, resulted from subsequent, intervening,
19 and/or superseding causes that are unrelated to Defendant.

20 8. Plaintiff and/or the beneficiaries of the estate may have failed to mitigate their
21 damages.

22 9. Defendant reserves the right to amend this Answer, and to assert additional
23 affirmative damages, third-party claims, counterclaims, and cross-claims as deemed
24
25

1 reasonable and necessary as discovery in this matter is conducted, whether in this lawsuit or
2 not, as the facts may develop.

3 **XVII. DEFENDANTS' PRAYER FOR RELIEF**

4 WHEREFORE, having fully answered Plaintiff's First Amended Complaint for
5 Wrongful Death, Negligence, Battery, Conversion, and Strict Liability for Engaging in an
6 Abnormally Dangerous Activity, Defendant prays for judgment as follows:

7 A. Dismissal of all claims asserted against Defendant with prejudice and without
8 costs;

9 B. An award of all costs and attorneys' fees allowed by statute or other applicable
10 law; and

11 C. For such other relief as the court may deem just or equitable.

12 DATED this 20th day of September, 2024.

13
14 **HELSELL FETTERMAN LLP**

15 By: /s/ Shawn Q. Butler

16 Shawn Q. Butler, WSBA No. 45731

17 sbutler@helsell.com

18 Sebastian G. Toth, WSBA No. 51348

19 stoth@helsell.com

20 *Attorneys for Defendants*

21 800 Fifth Avenue, Suite 3200

22 Seattle, WA 98104

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

2
3
4
5

6
7
8
9

Co-Attorney for Plaintiff:

Pilar C. French, WSBA No. 33300
LANE POWELL, P.C.
601 SW Second Ave., Suite 2100
Portland, OR 97204
(503) 778-2100
frenchP@lanepowell.com

10

11
12
13
14

16
17

18

19
20

21

/s/ *Leili Moore*

Leili Moore, Legal Secretary
lmoore@helsell.com

HELSELL
FETTERMAN

Helsell Fetterman LLP
800 Fifth, Suite 3200
Seattle, WA 98104
206.292.1144 **WWW.HELSELL.COM**